



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 10-063

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

a. In the rule summary, the agency should include a heading titled “analysis and supporting documents used to determine effect on small business or in preparation of economic impact report” and include relevant information under the heading. [s. 1.02 (2) (a) 9., Manual.]

b. In s. Adm 24.01 (5), the phrase “*nolo contendere* plea” should be replaced by the phrase “a plea of no contest.” [s. 1.01 (1), Manual.]

c. In s. Adm 24.03 (2) (intro.), the phrase “all of” should be inserted before the phrase “the following.”

4. Adequacy of References to Related Statutes, Rules and Forms

a. In the “statute interpreted” section of the rule summary, a comma should be inserted after “16.855 (15).” [s. 1.07, Manual.]

b. In the “explanation of statutory authority” section of the rule summary, “Stats.” should replace “Wis. Stats.” [s. 1.07, Manual.]

c. In the “comparison of similar rules in adjacent states” section of the rule summary, “ch. Adm 24” should replace “rule Adm 24” in the first paragraph. [s. 1.07, Manual and see, also, the same issue in the discussion of Minnesota law.]

d. In the “Iowa” section of the rule summary, “11-Chapter 105.18 (2) and (3), Iowa Administrative Code” should replace “11-Chapter 105.18 (2), Iowa Administrative Code.”

e. In the “summary of factual data and analytical methodologies” section of the rule summary, “ch. Trans 504” should replace “Chapter Trans 504.” [s. 1.07, Manual.]

f. In s. Adm 24.01 (1) (a), “subch. V of ch. 16, Stats.” should replace “subchapter V, Chapter 16 of the Wisconsin Statutes.” [s. 1.07, Manual.]

g. In s. Adm 24.04 (2) (b), “par. (a)” should replace “sub. (2) (a).” [s. 1.07, Manual.]

h. In s. Adm 24.05 (1) (a), “sub. (3)” should replace “sub (3).” [s. 1.07, Manual.]

i. In s. Adm 24.05 (2) (d), “pars. (a) to (c)” should replace “pars. (a) through (c).” [s. 1.07, Manual.]

j. In s. Adm 24.05 (3) (b) 3. c., “227.46” should not be underlined. [s. 1.07, Manual.] The same comment applies to s. Adm 24.06 (3) (b) 2. c.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the “plain language analysis” section of the rule summary, the sentence beginning with “For example” is an incomplete sentence.

b. In the “Illinois” section of the rule summary, the sentence beginning on the third line of the paragraph is unclear, especially the use of “specifically.” In the same section, the agency should review the Illinois provisions and cite the appropriate provisions to support the agency’s assertions in the last four lines of the section.

c. In the rule summary, the first reference to Department of Transportation should be “Department of Transportation (DOT).” All subsequent references should be “DOT.” The same comment applies to the use of “Department of Administration” and “DOA.” [s. 1.01 (8), Manual.]

d. In s. Adm 24.02 (4), the agency should replace “This definition” with ““Contractor.”” [s. 1.01 (7), Manual.] Also, the word “which” should be replaced by the word “that.”

e. It appears that “judgment” is used in the proposed rule as a judgment in a criminal case in some instances and as a judgment in a civil case in other instances. The agency might consider using “civil judgment” for judgments in civil cases.

f. Section Adm 24.03 (2) (d) requires the department to maintain records of the effective date of a debarment or suspension and, in the case of a debarment, the contract termination date. To what does the phrase “the contract termination date” refer? It appears that a debarment may occur outside the existence of a current contract.

g. In s. Adm 24.04 (1) (b), what does the phrase “legal authorities” mean? [See also s. Adm 24.02 (3).]

h. In s. Adm 24.04 (1) (b) and (2) (c), “may not” should replace “shall not.” [s. 1.01 (2), Manual.] The same comment applies to s. Adm 24.06 (3) (c) 1.

i. In s. Adm 24.05 (1) (b), it appears that “commodities” should be included in the first list of items in the paragraph. The same comment applies to s. Adm 24.06 (1) (c).

j. Section Adm 24.05 (2) (c) provides that the secretary may debar a contractor for any other cause that is so serious or compelling that it affects the responsibility of a contractor or subcontractor. What is the meaning of the phrase “affects the responsibility of a contractor or subcontractor”? [See also the different phrasing of this reason for taking action in s. Adm 24.06 (2) (c).]

k. In s. Adm 24.05 (3) (b) 2., it appears that the language should include a proposal to debar based upon an admission.

l. In s. Adm 24.05 (4) (d), the first occurrence of the word “of” should be replaced by the word “after.” [See also s. Adm 24.06 (3) (c) 4.]

m. In s. Adm 24.05 (5) (b), “shall” should replace “must” in the second sentence in the paragraph. [s. 1.01 (2), Manual.] Also, in sub. (5) (a), if a suspension is in effect, when must the debarment decision be made?

n. In s. Adm 24.06 (1) (b), “may” should replace “is to be” in the first sentence in the paragraph. [s. 1.01 (2), Manual.]

o. In s. Adm 24.06 (1) (b), the colons should be removed.

p. In s. Adm 24.06 (3) (d) 1., it appears that “or debarment” should be inserted after “suspension” in the first sentence of the subdivision.

q. In SECTION 2, “shall” should replace “will,” and a comma should be inserted after “s. 227.22 (2).” [ss. 1.01 (2) and 1.07, Manual.]